

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

December 21, 2005

In Reply Refer To:  
DeGreeffpa, LLC,  
Bendwind, LLC,  
Sierra Wind, LLC,  
Groen Wind, LLC,  
Larswind, LLC,  
TAIR Windfarm, LLC, and  
Hillcrest Wind, LLC  
Docket Nos. ER06-215-000,  
ER06-220-000,  
ER06-221-000,  
ER06-222-000,  
ER06-223-000,  
ER06-224-000, and  
ER06-225-000

Van Ness Feldman, P.C.  
Attn: Margaret A. Moore, Esq.  
1050 Thomas Jefferson Street, N.W.  
Washington, D.C. 20007

Dear Ms. Moore:

1. On November 16, 2005, DeGreeffpa, LLC, Bendwind, LLC, Sierra Wind, LLC, Groen Wind, LLC, Larswind, LLC, TAIR Windfarm, LLC, and Hillcrest Windfarm, LLC (collectively, Applicants) filed applications for market-based rate authority, with accompanying tariffs. The proposed market-based rate schedules provide for the sale of energy and capacity at market-based rates, the reassignment of transmission capacity, and the resale of firm transmission rights or their equivalents (FTRs). Applicants include the Commission's market behavior rules<sup>1</sup> and also the Commission's change in status

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<sup>1</sup> *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218(2003), *order on reh'g*, 107 FERC ¶ 61,175 (2004).

reporting requirement pursuant to Order No. 652.<sup>2</sup> Applicants request waivers commonly given to similar market-based rate applicants. Applicants' submittals, as discussed below, satisfy the Commission's standards for market-based rate authority and are accepted for filing, effective December 7, 2005, as requested.<sup>3</sup>

2. Applicants state that they each own a 1.25 MW wind-powered electric generation facility in the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), and construction on each commenced in 2005. Applicants state that each of these facilities is 51 percent owned by an individual, a different individual for each, none of whom directly or indirectly own or control any other electric facilities, fuel suppliers, unique land sites, or other inputs to generation. Furthermore, Applicants state that these individuals are not currently employed by, or affiliated with, any electric utility with a franchised service territory.

3. Applicants state that the remaining 49 percent of each is owned by Mission Minnesota Wind, LLC, an indirect wholly-owned subsidiary of Edison Capital, which provides capital and financial services for electric power and infrastructure projects and is in turn a wholly-owned subsidiary of Edison International. Applicants state that through Edison International, Edison Capital is affiliated with Southern California Edison Company (Edison), a public utility with a franchised service territory located in California. Applicants state that Edison Capital's other generating affiliates in the Midwest ISO market each sell the entirety of their output to either Mid-American Energy Company (approximately 113 MW), Northern States Power Company (approximately 59 MW), or Interstate Power and Light Company (approximately 15 MW) pursuant to long-term power purchase agreements. Finally, Applicants state that Edison Capital is also affiliated with several power marketers, none of which owns or controls any electric facilities in the relevant market.

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<sup>2</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

<sup>3</sup> DeGreeffpa, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; Bendwind, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; Sierra Wind, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; Groen Wind, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; Larswind, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; TAIR Windfarm, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5; Hillcrest Wind, LLC, FERC Electric Tariff, Volume No. 1, Original Sheet Nos. 1-5.

## **Procedural Matters**

4. Notice of Applicants' filings was published in the *Federal Register*, 70 Fed. Reg. 72,815-72,816 (2005), with motions to intervene and protest to be filed by December 7, 2005. None was filed.

## **Discussion**

### **Market-Based Rate Authorization**

5. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.<sup>4</sup> As discussed below, the Commission concludes that Applicants satisfy the Commission's standards for market-based rate authority.

6. In its order issued in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004), the Commission adopted two indicative screens for assessing generation market power. Applicants cite section 35.27 of the Commission's regulations, which provides that applicants shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity constructed after July 9, 1996.<sup>5</sup> In addition, as noted above, Applicants state that the generation owned by Applicants' affiliates in the Midwest ISO market is committed under long-term contracts. Based on these representations, the Commission finds that Applicants satisfy the Commission's generation market power standard for the grant of market-based rate authority.

7. Applicants state that neither they nor their affiliates own, operate or control any transmission facilities in the relevant market. Applicants further state that their only transmission-owning affiliate is Edison, which does not own transmission in the relevant market, the Midwest ISO, and has an open access transmission tariff on file with the Commission.<sup>6</sup> Based on these representations, the Commission finds that Applicants satisfy the Commission's transmission market power standard for the grant of market-based rate authority.

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<sup>4</sup> See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155, at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281, at 61,899 (1996); *accord Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223, at 62,062-63 (1994).

<sup>5</sup> 18 C.F.R. § 35.27(a) (2005).

<sup>6</sup> *Allegheny Power System, Inc.*, 80 FERC ¶ 61,143 (1997)

8. Applicants state neither they nor their affiliates own or control unique land sites, fuel supplies, or other inputs to electric power generation that could be used to prevent other competitors from entering the market. Based on these representations, the Commission is satisfied that Applicants cannot erect barriers to entry.

9. Applicants are affiliated with Edison, which has a franchised service territory. Applicants' tariffs prohibit them from selling power to any public utility affiliate with a franchised service territory without first receiving approval from the Commission under section 205 of the Federal Power Act.<sup>7</sup> Applicants also state that a code of conduct that meets the Commission's standards for prevention of affiliate abuse is included in Applicants' market-based rate tariffs. Based on these representations, the Commission finds that Applicants satisfy the Commission's concerns with regard to affiliate abuse.

10. Applicants also request authority to reassign transmission capacity and to resell FTRs or their equivalent. The Commission finds these provisions consistent with the Commission's requirements.<sup>8</sup> Accordingly, the Commission will grant this request.

### **Other Waivers, Authorizations and Reporting Requirements**

11. Applicants request the following waivers and authorizations: (1) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15 and 35.16; (2) waiver of Parts 41, 101 and 141 of the Commission's accounting and periodic reporting requirements; and (3) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

12. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.<sup>9</sup> Notwithstanding the waiver of the accounting and reporting requirements here, the Commission expects Applicants to keep its accounting records in accordance with generally accepted accounting principles.

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<sup>7</sup> 16 U.S.C. § 824d (2000).

<sup>8</sup> See *Southwestern Public Service Company*, 80 FERC ¶ 61,245 (1997); *California Independent System Operator, Inc.*, 89 FERC ¶ 61,153 (1999).

<sup>9</sup> It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141) as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities, (18 C.F.R. Part 34). See *Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 at P 23-24 (October 10, 2002), FERC Stats. & Regs. ¶ 32,558 (2002).

13. Within 30 days of the date of the issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214 (2004).

14. Absent a request to be heard within the period set forth above, Applicants are hereby authorized to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

15. The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Applicants' issuances and securities or assumptions of liabilities.

16. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.<sup>10</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>11</sup> Accordingly, Applicants must file their first Electric Quarterly Reports no later than 30 days after the first quarter Applicants' rate schedules are in effect.

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<sup>10</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>11</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

21. Applicants must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>12</sup>

23. Applicants are directed to file an updated market power analysis within three years of the date of this order. The Commission also reserves the right to require such an analysis at any intervening time.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

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<sup>12</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).